

Welcome to the Accounting Services Group and Splaver & Splaver CARES Act Review

- 1) If you cannot hear the audio from the conference and connected using computer audio, please call in to the conference using one of the numbers on the meeting invitation
- 2) The presentation is available to download from the Chat window. There is a Chat icon in the meeting control bar. Open that and scroll to the top of the Chat box and click on the presentation and other documents available to download (Chat Alt-H). You can also download from our website <https://asgcpa.com/COVID-19-Update.php>
- 3) We apologize in advance for our lack of artistic ability

Caveat - Warning

This update provides an overview of a specific developing situation. This update is distributed with the understanding that the information contained does not constitute legal, accounting or other professional advice. It is not intended to be responsive to any individual situation or concerns as the contents of the publication are intended for general informational purposes only. Readers are urged not to act upon the information contained in this publication without first consulting competent legal, accounting or other professional advice regarding implications of a particular factual situation. This is because these laws were just passed and remain subject to formal guidance from the Internal Revenue Service, Department of Labor and any other number of government agencies. We've done our best to summarize this information without such guidance and as such the ultimate rules or interpretation thereof may differ. That would extend to any lending agency whose interpretation of the forgiveness provisions differ from ours.

IMPORTANT TAX DATE CHANGES

IRS Notice 2020-18, 3/20/2020 –

- Delays due date of individual income tax returns from April 15, 2020 to July 15, 2020.

Who is Covered: Any Taxpayer who had a Tax Return, 2019 tax payment due or 1st quarter 2020 estimated tax payment

- 1) 2019 Income Tax payments otherwise due 4/15/20 – Now due by 7/15/20
- 2) 1st Quarter 2020 estimated tax payments normally due 4/15/20 – Now due by 7/15/20
- 3) Designated 2019 IRA payments may now be made until 7/15/20.
- 4) Designated 2019 HSA payments may now be made until 7/15/20.
- 5) There is no relief for payroll taxes due for 2019 or Q-1 2020.
- 6) State of Arizona Tax Credit Donations – Must be paid by 4/15/20 (no extension)

Note: No delay in 2020 2nd quarter estimated tax payment which is due 6/15/20.

SBA - Financial Assistance Programs



Paycheck Protection Program (PPP)



Emergency Injury Disaster Loan (EIDL)

Payment Protection Program

The Coronavirus Aid, Relief, and Economic Security (CARES) Act allocated \$350 billion to help small businesses keep workers employed amid the pandemic and economic downturn. Known as the Paycheck Protection Program (PPP), the initiative provides 100% federally guaranteed loans to small businesses.

The purpose of this program is to allow businesses to pay employees during the pandemic slowdown

Importantly, these loans will be converted to a grant and forgiven if borrowers maintain their payroll and headcount for eight weeks following receipt of loan proceeds.

Am I ELIGIBLE?

You are eligible if you are:

- 1) A small business with fewer than 500 employees
- 2) A 501(c)(3) with fewer than 500 employees
- 3) An individual who operates as a sole proprietor, is self employed, or an individual who operates as an independent contractor who regularly carries on any trade or business

Documentation Requirements

- 1) SBA has not dictated specific documentation requirements
- 2) Requirements will be determined by the lending institution
- 3) We anticipate you'll need to provide Payroll tax returns and payroll registers for 2019, possibly Q1 2020; 2018 and 2019 tax returns, and 2019 profit & loss if 2019 tax return is not available.

Details

The underwriting requirements have been substantially reduced and will rely largely on self certifications of the borrower.

- 1) Can borrow 2.5x Average Monthly Qualified Payroll Costs (Maximum of \$100,000 per employee)
- 2) Application Dates:
 - A. April 3, 2020, small businesses
 - B. April 10, 2020, independent contractors and self-employed individuals
- 3) Can use for Payroll Costs, Mortgage Interest, Rent (under lease agreement), and Utilities
- 4) Loan is due in 2 years
- 5) Interest rate is 1.0%
- 6) No collateral, no personal guarantee
- 7) Have to request forgiveness – can apply 60 days after receipt of the loan
- 8) Will need to provide documentation verifying pay rates and FTE's with forgiveness request

Certifications

The underwriting requirements have been substantially reduced and will rely largely on self certifications of the borrower.

- 1) **Current economic uncertainty makes the loan necessary to support ongoing operations**
- 2) Funds will be used to retain workers, or make mortgage, lease, and utility payments
- 3) You have not and will not receive another loan under the PPP
- 4) You will provide documentation verifying # of full-time equivalent employees , payroll costs, covered mortgage interest payments, covered rent payments, and covered utilities for the eight weeks after getting the loan
- 5) All the information you provided in your application and in all supporting documents and forms is true and accurate. Knowingly making a false statement to under this program is punishable by law (up to 30 years imprisonment)
- 6) **The information provided is true and accurate and making false statements punishable by imprisonment (up to 30 years)**
 - A. **I further certify that the information provided in this application and the information that I have provided in all supporting documents and forms is true and accurate. I realize that knowingly making a false statement to obtain a guaranteed loan from SBA is punishable under 18 USC 1001 and 3571 by imprisonment of not more than five years and/or a fine of up to \$250,000; under 15 USC 645 by imprisonment of not more than two years and/or a fine of not more than \$5,000; and, if submitted to a Federally insured institution, under 18 USC 1014 by imprisonment of not more than thirty years and/or a fine of not more than \$1,000,000.**

We would not expect any of our clients to attempt to unjustly enrich themselves. However, both the Treasury and the Justice Department have gone out of their way to communicate that they intend to aggressively pursue those who attempt to take advantage.

It's hard to imagine at this point that anyone who operates a business has not been adversely impacted. However, if your revenue has not been negatively impacted, we strongly suggest you seek the input of legal counsel before accepting one of the loans. (We are not lawyers and do not want to give legal advice)

Qualified Payroll Costs

Qualified Payroll Costs used to determine Loan Amount

- **For Employers:** 2.5x (10 weeks) Average Monthly The sum of payments of any compensation with respect to employees that is:
 - 1) Salary, wage, commission, tips, or similar compensation (not to exceed \$100k/ee)
 - 2) Payment for vacation, parental, family, medical, or sick leave, and severance
 - 3) Payment required for the provisions of group health care benefits, including insurance premiums
 - 4) Payment of any retirement benefits
 - 5) Payment of state or local tax assessed on the compensation of the employee (AZ SUI)
 - 6) Payroll taxes ???
- **For Sole Proprietors, Independent Contractors, and Self-Employed Individuals:** sum of payments of any compensation to or income of a sole proprietor or independent contractor that is a wage, commission, income, **net earnings from self-employment**, or similar compensation that is not more than \$100,000 in one year, as pro-rated for the covered period.



Qualified Payroll Costs used to determine Loan Forgiveness

A borrower is eligible for loan forgiveness equal to the amount spent on the following items during the **8-week** period beginning on the date of the origination of the loan

- Payroll costs (using the same definition of payroll costs used to determine loan eligibility)
- **Interest on the mortgage obligation incurred in the ordinary course of business**
- **Rent on a leasing agreement**
- **Payments on utilities (electricity, gas, water, transportation, telephone, or internet)**
- **For borrowers with tipped employees, additional wages paid to those employees**
- **No more than 25% can come from non-payroll costs**
- **The loan forgiveness cannot exceed the principal**

Qualified Payroll Costs - Definition

- Taxes that are withheld in 2019 and up to and including February 14, 2020 *are* included (not reducing) in Qualified Payroll Costs (Previous Slide)
- They *are not* included in the statutes definition of Qualified Payroll Costs from February 15, 2020 through June 30, 2020
- We think (definitely don't know) that this means the amount used to compute Debt Forgiveness for wages paid between 2/15/20 and 6/30/20 will exclude payroll taxes. Payroll taxes in this case will include Employer and Employee Social Security and Medicare AS WELL AS employee Federal Withholding.

Maximizing the Grant

The amount of loan forgiveness is reduced if there is a reduction in the number of employees or a reduction of greater than 25% in wages paid to individual employees. Specifically:

Reduction based on reduction of number of employees

Divided By	$\frac{\text{Avg FTE during 8 weeks after receipt}}{\text{Avg FTE from 2/25/2019 to 6/30/2019}}$
Or	
Divided By	$\frac{\text{Avg FTE during 8 weeks after receipt}}{\text{Avg FTE from 1/20/2020 to 2/29/2020}}$

- Can reduce salaries for each ee no more than 25%
- The reduction in salary for individual employees during the subsequent 8-week by more than 25% when compared to the most recent quarter before the 8-week period began (for employees earning less than \$100,000 (on an annualized basis)
 - Example - A, an employee of X Co. earned an annual salary of \$70,000 as of March of 2020. After X Co. takes out the Paycheck Protection Loan, A's salary is reduced to \$40,000. This was a greater-than 25% decrease in A's wages. Thus, the forgiveness amount of \$440,000 is reduced by another \$30,000. Total forgiveness is \$440,000 - \$30,000, or \$410,000.*
- 8 week period for forgiveness is approx. 20% of the loan calc period; Will need expenses above or increased payroll for 100% forgiveness

Restoration of Forgiveness

If an employer substantially reduced wages during the period from February 15, 2020 until April 27, 2020, they can replace or restore salaries by June 30, 2020 and not reduce the forgiveness amount.

Economic Injury Disaster Loans (EIDL) and Emergency Grants

- 1) Administered by Small Business Administration (SBA)
- 2) All Applications must be submitted directly with the SBA – Applications currently being Accepted

ELIGIBILITY:

- 1) Businesses with less than 500 employees
- 2) Sole Proprietorship (with or without employees)
- 3) Independent Contractor
- 4) Do not need to show that you cannot obtain credit elsewhere

LOAN TERMS:

- 1) Maximum loan size is \$2 million.
- 2) Available through December 31, 2020
- 3) Loan Term – 30 Years
- 4) Rate – 3.75%
- 5) No Personal Guarantee for loans up to \$200,000

LOAN TERMS, continued

- 6) First payment due one year after loan origination.
 - A. Interest will continue to accrue during this period.
- 7) May be used concurrently with Paycheck Protection Loan.
 - A. As long as the loan is for purposes OTHER than payroll covered by the PPL.

Ability to Repay: The loan may be approved based solely on the credit score of the application (no tax returns required), or SBA may use traditional underwriting methods.

EMERGENCY GRANT:

- 1) **Through December 31, 2020 an applicant may request an advance of up to \$10,000.**
- 2) The \$10,000 is not required to be repaid, even if the disaster loan is denied.
- 3) The advance can be used to pay sick leave, maintain payroll, meet increased costs of materials, make rent or mortgage payments, or repay obligations.
- 4) The funds are to be advanced within 3 days of an application.

IMPORTANT: if you use your Paycheck Protection Loan to cover payroll for the 8-week covered period, you cannot use the EIDL loan for payroll for those same costs in that period, although you could use it for payroll not during that period or for different workers.

EIDL VS PPP

Why would you want an EIDL (as opposed to a PPP)?

1. You have significant non-payroll costs (such as mortgage payments or equipment loans).
2. You think your PPL won't be forgiven – either because you lay people off or cut salaries.
3. The EIDL has a more favorable loan period (30 years).

What is the Process?

Step One – Apply for the Loan – Either online or via mail

Step Two – The Loan Processing Decision

SBA reviews your credit before conducting an inspection to verify your losses. A loan officer works with you to provide all the necessary information needed to reach a loan determination. The goal is to arrive at a decision on your application within 2 - 3 weeks, although it is difficult to predict how a large influx of applications will be handled. A loan officer will contact you to discuss the loan recommendation and your next steps. You will also be advised in writing of all loan decisions.

Step Three – Loan Closed and Funds Disbursed

SBA will prepare and send your Loan Closing Documents to you for your signature. Once they receive your signed Loan Closing Documents, an initial disbursement will be made to you within 5 days (\$25,000). A case manager will be assigned to work with you to help you meet all loan conditions. They will also schedule subsequent disbursements until you receive the full loan amount. Your loan may be adjusted after closing due to your changing circumstances.

➤ **Need to have annualized qualified payroll greater than \$48,000 to receive more from a PPP than the \$10,000 EIDL Grant**

Documentation (we think) will be required:

Although the underwriter has discretion to grant you loan request solely off your credit score, we think it would be prudent to provide as much information as possible.

The more you provide, the less likely the decision making process delayed waiting for an exchange of information.

- 1) Form 4506-T completed and signed by the Company and each principal who owns 20% or more of the business.
- 2) Complete copies of your most recent Federal income tax returns for the Company and 20% or more owners.
- 3) If the 2019 Corporate tax returns are not complete, a 2019 Profit and Loss Statement.
- 4) Year to date 2020 Profit and Loss Statement.
- 5) Personal Financial Statement – completed, signed and dated by each principal who owns 20% or more of the business (SBA Form 413).
- 6) Schedule of Liabilities for the Company listing all notes payable (SBA Form 2202).

Employee Retention Credit

UNAVAILABLE TO EMPLOYERS THAT RECEIVE A LOAN UNDER THE PAYCHECK PROTECTION PROGRAM

- 1) A new credit is created to encourage employers to retain employees and maintain salary during the rest of 2020.
- 2) The credit is against payroll – not income taxes. Specifically, the employer’s share of the Social Security tax, so 6.2% of wages paid. It is fully refundable. First, however, the payroll tax is reduced by qualified sick leave and family leave credits, if any.
- 3) The credit is equal to 50% of “qualified wages” paid to each employee, and is done on a calendar quarter basis. It applies only to wages paid after March 12, 2020 and before January 1, 2021. Thus, the maximum credit is for part of Q1, and then Q2, Q3 and then Q4 of 2020.
- 4) The TOTAL wages taken into account for any employee is \$10,000 plus allocable health care costs. Thus, an employee making more than \$40,000/year will only generate a credit for one quarter.

Employee Retention Credit

Who gets the credit?

Any employer who:

Was carrying on a trade or business during 2020 - Satisfies for ANY calendar quarter in 2020:

A furlough test: A full or partial suspension due to orders from an appropriate government authority limiting commerce, travel, or group meetings due to COVID-19, **or**

A drop in receipts test. A quarter for which:

- 1) gross receipts for the quarter is less than 50% of gross receipts for the SAME calendar quarter in the prior year, and continuing until
- 2) The quarter for which receipts returns to at least 80% of receipts for the same quarter in the prior year.

Employee Retention Credit

What are qualified wages?

- 1) If you had more than 100 full-time employees during 2019:
- 2) Count all wages paid during any quarter for which someone was not providing services during a quarter in which you pass the furlough test or drop in receipts test
- 3) If you had less than 100 full-time employees, you count all wages paid to employees – whether or not they were working -- during the furloughed period or any the “drop in receipts” period.
- 4) Only count wages paid from March 12 – December 31, 2020.
- 5) Qualified wages for any employee cannot exceed the amount the employee would have been paid for working the same duration during the 30 days preceding the period (what does this even mean?)
- 6) Qualified wages are capped for each employee at \$10,000, but MAY BE INCREASED by an employee’s allocable share of qualified health plan expenses

Employee Retention Credit

Wages that are not eligible:

- A child, sibling or step-sibling, parent, step-parent, niece or nephew, aunt or uncle or in-law of anyone who owns more than 50% of the stock of a corporation or 50% of the capital or profits interest in a partnership.
- No income tax deduction is allowed for wages equal to the amount of credit claimed. Thus, 50% of all qualified wages up to \$10,000 per employee will not be allowed as a deduction.

Employee Retention Credit - Example

Example. X Co. was in business for all of 2020. From April 1 through June 30th, X Co. had to shut its doors, and its 6 employees were sent home. They were still paid wages of \$6,000 each for the quarter. From July 1st through September 30th, the business reopens its doors, but gross receipts are only 30% of what they were for the same period in 2019. The 6 employees are paid \$5,000 each for this quarter. From October 1, 2020 through December 31, 2020, the gross receipts of X Co. returns to 85% of the prior year's 4th quarter.

Because X Co. has fewer than 100 employees, it can count the wages paid to its six employees for both the 2nd and 3rd quarters of 2020, up to \$10,000 each. The credit for Q2 is \$18,000 ($50\% * \$36,000$). The Social Security liability was \$2,232. Thus, X Co. will get a credit of \$15,768.

For Q3, X Co. will get a credit of \$24,000 ($6 \text{ employees} * \$4,000$, because qualified wages are capped at \$10,000). The credit is \$12,000 and the Social Security tax is \$1,860; thus, the refund is \$10,140.

Families First Coronavirus Response Act

Applies to employers of 500 or fewer employees (do not include independent contractors)

Effective for leave starting April 1, 2020

Two Components:

- 1) Mandatory Paid Sick Leave (10 days)
- 2) Extended Family Leave (10 weeks)

Observations:

- 1) Employer does not have a responsibility to employee after employee leaves employment
- 2) Must post conspicuous notice of rights
- 3) Employers who pay either of the above leave will be eligible for reimbursement via a credit against FICA taxes paid. Any credit in excess of taxes actually paid by the employer will be refundable.
- 4) **Employers cannot receive both these credits and a Paycheck Protection Loan (PPL) discussed previously by Mike.**

MANDATORY PAID SICK LEAVE

Must be paid when employee is unable to work or telework for any of the following:

1. Subject to a Federal, State or local quarantine or isolation order related to COVID-19.
2. Has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.
3. Experiencing symptoms of COVID-19 and seeking a medical diagnosis.
4. Caring for an individual who is subject to an order as described in 1 above or has been advised as described in 2 above.
5. Caring for a child, if the school or place of care of the child has been closed, or the child care provider of such child is unavailable due to COVID-19 precautions.
6. Experiencing any other substantially similar condition specified by the Secretary or the Treasury or the Secretary of Labor.

Exception: the employer of an employee who is a health care provider or emergency responder can exclude such employees from this provision.

Amount of Mandatory Sick Pay

For causes 1 through 3 above (employee is sick):

- Employee's standard rate of pay (or minimum wage if higher)
- Maximum daily amount:
 - \$510 per day, or \$5,110 in total
- Must provide 80 hours for full time employees
- For part time employees, equal to the average hours that employee works over a 2 week period

For causes 4 through 6 above (employee caring for someone else):

- Two-thirds employee's standard rate of pay (or minimum wage if higher)
- Maximum daily amount:
 - \$200 per day, or \$2,000 in total
- Must provide 80 hours for full time employees
- For part time employees, equal to the average hours that employee works over a 2 week period

Observations:

- Must be provided to all employees regardless of how long they have been employed by you
- Mandatory paid sick leave must be used before other employer provided sick leave
- Not subject to EMPLOYER Social Security tax of 6.2%

EXTENDED FAMILY LEAVE

- 1) Must be paid when employee is **unable to work or telework** due to need to care for a child under 18 years of age of such employee if the school or place of care has been closed, or child-care provider is unavailable due to a public health emergency (COVID-19 is considered a public health emergency).
- 2) Employers with 50 or fewer employees are exempted from compliance if they wish, if the loss of an employee can be demonstrated to produce imminent harm to the business. Guidance to be issued by DOL on what this means.
- 3) An eligible employee is any employee who has been employed for at least 30 calendar days before leave is requested.

Amount of Extended Family Leave Pay

- 1) First 10 days (2 weeks) of this leave can be unpaid leave. However, the employee may elect to substitute other accrued paid leave for some or all of the unpaid leave under this provision.
- 2) Next 10 weeks, the employer must pay the employee based on:
 - A. Two-thirds of employee's standard pay (or minimum wage if higher), and
 - B. The number of hours the employee would otherwise be normally scheduled to work. (You must factor in overtime into this calculation. Part-time employees are subject to a separate calculation)
 - C. Pay is not to exceed \$200 per day or \$10,000 in total to any one employee.
 - D. Pay is not subject to EMPLOYER Social Security tax of 6.2%.
- 3) Is there a requirement that an employee on leave get his/her job back?
 - A. Generally, yes.
 - B. However, for employers with less than 25 employees, the employee is not guaranteed their job back, if:
 - i. Their position no longer exists because of economic conditions caused by COVID-19, and
 - ii. The employer makes a reasonable effort to restore the employee to the position if the position becomes available in the next year.

Mandatory Paid Sick Leave and Emergency Medical Leave

The two types of leave can work together if an employee is taking care of a child because school is closed or child care is not available (reason 5 of the mandatory sick pay rules)

- 1) The first two weeks could be paid sick time (maximum of \$2,000)
- 2) Next ten weeks would be paid medical leave (maximum of \$10,000)
- 3) Maximum total payment could be \$12,000

General Information on Payroll Tax Credits

- 1) Employers who pay family or sick leave as required will get a separate credit based off each payment will reduce the EMPLOYER Social Security tax of 6.2%
- 2) Self-employed taxpayers are eligible for a credit against 50% of self-employment tax
- 3) The credits are increased by the EMPLOYER Medicare tax (1.45%) imposed on qualified family or sick pay leave wages
- 4) The credits are increased by the EMPLOYEE'S share of allocable health costs
- 5) Any excess credit is refundable

Payroll Credits for Family/Sick Leave

Mandatory Sick Leave - Employers:

- 1) Credit is equal to 100% of “qualified paid sick leave wages” paid by an employer for each calendar quarter from April 1, 2020 through December 31, 2020.
- 2) Qualified paid sick leave wages:
 - A. Capped at \$511/day per employee or \$5,110 in the aggregate (for reasons 1-3, EMPLOYEE is sick)
 - B. And \$200/day per employee or \$2,000 in the aggregate (for reasons 4-6, employee is taking care of someone else)
 - C. The wages are increased by the employee’s allocable share of costs incurred to provide group health insurance.
- 3) Gross income of the employer is increased by any credit allowed against payroll taxes

Mandatory Sick Leave – Self-Employed Taxpayers:

- 1) Self-employed taxpayers can claim a credit for the “qualified sick leave equivalent” amount
- 2) Determined as follows:
 - A. Number of days the individual is unable to perform their business for reasons (but not more than 10) giving rise to eligible sick leave had they been an employee multiplied by the lesser of:
 - i. \$511 if individual is sick (or \$211 if individual taking care of someone else), or
 - ii. 100% if individual is sick (or 67% if individual is taking care of someone else) of the net earnings from self-employment divided by 260
- 3) These credits will be claimed on taxpayer’s income tax return and will reduce required estimated tax payments

Payroll Credits for Family/Sick Leave

Family Leave - Employers:

- 1) Credit is equal to 100% of “qualified family leave wages” paid by an employer for each calendar quarter from April 1, 2020 through December 31, 2020.
- 2) Qualified paid family leave wages:
 - A. Capped at \$200/day per employee or \$10,000 in the aggregate
 - B. The wages are increased by the employee’s allocable share of costs incurred to provide group health insurance.
- 3) Gross income of the employer is increased by any credit allowed against payroll taxes

Family Leave – Self-Employed Taxpayers:

- 1) Self-employed taxpayers can claim a credit for the “qualified family leave equivalent” amount
- 2) Determined as follows:
 - A. Number of days the individual is unable to perform their business for reasons (but not more than 50) giving rise to eligible sick leave had they been an employee multiplied by the lesser of:
 - i. \$200, or
 - ii. 67% of the net earnings from self-employment divided by 260
- 3) These credits will be claimed on taxpayer’s income tax return and will reduce required estimated tax payments

Additional Information on Credits:

- 1) The IRS guidance is very employer friendly
- 2) You can get an instant reduction of the amount necessary to pay federal income tax withholding and the employers and employees share of payroll taxes
- 3) Do NOT deposit the amount with the IRS and then request a refund on Form 941, reduce your deposits in real time and use the funds to pay the sick and family leave wages
- 4) If the credit is greater than the sum of your federal withholding and the employer's and employee's payroll taxes, you can apply for an instant refund that will be paid in 2 weeks or less

Closing

- Income Tax Returns – Thank you for your patience
- Answers to chat questions – we'll distribute answers

<https://asgcpa.com/COVID-19-Update.php>

- If you value the quality of service(s) we have provided, we would appreciate you taking a few minutes to complete a review of the Firm at our recently added Reviews page on our website.

<https://asgcpa.com/client-reviews.php>

<https://www.splavercpa.com/client-reviews.php>

- We wish you and your families the best of health and luck!!

- Thank you for Participating